



April 8, 2003

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## ENGROSSED SENATE BILL No. 172

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DIGEST OF SB 172 (Updated April 7, 2003 5:58 PM - DI 105)

**Citations Affected:** IC 9-30; noncode.

**Synopsis:** Operating a vehicle while intoxicated. Provides that a person who causes the death of another person while operating a motor vehicle: (1) while intoxicated; or (2) with a prohibited alcohol concentration; commits a Class B felony.

**Effective:** July 1, 2003.

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**Young R Michael, Broden, Howard,  
Simpson, Antich, Skillman**  
(HOUSE SPONSORS — OXLEY, CROOKS, KRUSE, BOSMA)

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January 7, 2003, read first time and referred to Committee on Criminal, Civil and Public Policy.

February 6, 2003, amended, reported favorably — Do Pass.

February 10, 2003, ordered engrossed.

February 11, 2003, engrossed. Returned to second reading.

February 13, 2003, re-read second time, amended, ordered engrossed.

February 14, 2003, engrossed.

February 17, 2003, read third time, passed. Yeas 38, nays 8.

#### HOUSE ACTION

March 4, 2003, read first time and referred to Committee on Courts and Criminal Code.

April 8, 2003, amended, reported — Do Pass.

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ES 172—LS 6419/DI 69+



April 8, 2003

First Regular Session 113th General Assembly (2003)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2002 Regular or Special Session of the General Assembly.

## ENGROSSED SENATE BILL No. 172

A BILL FOR AN ACT to amend the Indiana Code concerning motor vehicles.

*Be it enacted by the General Assembly of the State of Indiana:*

1       SECTION 1. IC 9-30-5-5, AS AMENDED BY P.L.175-2001,  
2       SECTION 9, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
3       JULY 1, 2003]: Sec. 5. (a) A person who causes the death of another  
4       person when operating a motor vehicle ~~(1) with an alcohol~~  
5       ~~concentration equivalent to at least eight-hundredths (0.08) gram of~~  
6       ~~alcohol per: (A) one hundred (100) milliliters of the person's blood; or~~  
7       ~~(B) two hundred ten (210) liters of the person's breath; (2) with a~~  
8       controlled substance listed in schedule I or II of IC 35-48-2 or its  
9       metabolite in the person's body ~~or (3) while intoxicated;~~ commits a  
10      Class C felony. However, the offense is a Class B felony if, within the  
11      five (5) years preceding the commission of the offense, the person had  
12      a prior unrelated conviction under this chapter.

13      **(b) A person who causes the death of another person when**  
14      **operating a motor vehicle:**

15      **(1) with an alcohol concentration equivalent to at least**  
16      **eight-hundredths (0.08) gram of alcohol per:**

17      **(A) one hundred (100) milliliters of the person's blood; or**

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1           **(B) two hundred ten (210) liters of the person's breath; or**  
2           **(2) while intoxicated;**  
3           **commits a Class B felony.**

4           ~~(b)~~ **(c)** A person who violates subsection (a) **or (b)** commits a  
5           separate offense for each person whose death is caused by the violation  
6           of subsection (a) **or (b)**.

7           ~~(c)~~ **(d)** It is a defense under subsection ~~(a)(2)~~ **(a)** that the accused  
8           person consumed the controlled substance under a valid prescription  
9           or order of a practitioner (as defined in IC 35-48-1) who acted in the  
10          course of the practitioner's professional practice.

11          SECTION 2. [EFFECTIVE JULY 1, 2003] **IC 9-30-5-5, as**  
12          **amended by this act, applies only to offenses committed after June**  
13          **30, 2003.**

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SENATE MOTION

Mr. President: I move that Senator Broden be added as second author and Senator Howard be added as coauthor of Senate Bill 172.

YOUNG R MICHAEL

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SENATE MOTION

Mr. President: I move that Senator Simpson be added as coauthor of Senate Bill 172.

YOUNG R MICHAEL

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## COMMITTEE REPORT

Mr. President: The Senate Committee on Criminal, Civil and Public Policy, to which was referred Senate Bill No. 172, has had the same under consideration and begs leave to report the same back to the Senate with the recommendation that said bill be AMENDED as follows:

Page 1, delete lines 1 through 17.

Page 2, delete lines 1 through 10.

Page 2, line 20, after "person" insert ":

**(A) is at least twenty-one (21) years of age;**

**(B)".**

Page 2, line 20, delete "chapter" and insert "**chapter;**".

Page 2, line 21, before "operated" begin a new line double block indented and insert:

**"(C)".**

Page 3, line 31, after "person" insert "**was at least twenty-one (21) years of age and**".

Page 3, line 37, after "(g)" insert:

**"If:**

**(1) the conviction under consideration by the court is for an offense under section (1)(b) of this chapter; and**

**(2) the court determines that the person operated a vehicle with at least one (1) passenger less than eighteen (18) years of age in the vehicle;**

**the court shall recommend the suspension of the person's driving privileges for at least one (1) year but not more than two (2) years.**

**(h)".**

Page 3, reset in roman line 40.

Page 3, line 41, reset in roman "(3)".

Page 3, line 41, delete "(2)".

Page 3, line 42, reset in roman "(4)".

Page 3, line 42, delete "(3)".

Page 4, delete lines 3 through 12.

Page 4, line 13, delete "(j)" and insert "**(i)**".

Page 4, line 35, delete ":".

Page 4, strike line 36.

Page 4, line 37, strike "that the person be imprisoned for at least".

Page 4, line 37, delete "ninety".

Page 4, line 38, delete "(90)".

Page 4, line 38, strike "days;".

Page 4, line 40, strike "and".

Page 4, line 41, strike "(2)".

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Page 5, line 24, after "is" insert "**at least twenty-one (21) years of age and is**".

Page 5, line 28, delete ":".

Page 5, delete lines 29 through 30.

Page 5, line 31, delete "(2)".

Page 5, run in lines 28 and 31.

Page 5, delete lines 32 through 35, begin a new line block indented and insert:

**"(1) receive an assessment of the person's degree of alcohol and drug abuse; and**

**(2) if appropriate, successfully complete an alcohol or drug program;"**.

Page 5, line 41, delete "or".

Page 6, line 1, delete "IC 9-30-9." and insert "**IC 9-30-9; or**

**(3) a drug court certified under IC 12-23-14.5."**

Page 6, line 3, after "(1)" insert ",".

Page 6, line 3, delete "or".

Page 6, line 3, after "(2)," insert "**or (3),**".

Page 6, line 9, delete "IC 12-23-14;" and insert "**IC 12-23-14 or IC 12-23-14.5;**".

Page 6, between lines 25 and 26, begin a new paragraph and insert:

"SECTION 5. IC 9-30-10-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 5. (a) If it appears from the records maintained in the bureau that a person's driving record makes the person a habitual violator under section 4 of this chapter, the bureau shall mail a notice to the person's last known address that informs the person that the person's driving privileges will be suspended in thirty (30) days because the person is a habitual violator according to the records of the bureau.

(b) Thirty (30) days after the bureau has mailed a notice under this section, the bureau shall suspend the person's driving privileges for:

(1) **except as provided in subdivision (2),** ten (10) years if the person is a habitual violator under section 4(a) of this chapter;

(2) **life if the person is a habitual violator under section 4(a) of this chapter and has two (2) or more violations under section 4(a)(4) through section 4(a)(7) of this chapter;**

(3) ten (10) years if the person is a habitual violator under section 4(b) of this chapter; or

~~(3)~~ (4) five (5) years if the person is a habitual violator under section 4(c) of this chapter.

(c) The notice must inform the person that the person may be entitled to relief under section 6 of this chapter or may seek judicial

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review of the person's suspension under this chapter."

Page 8, line 15, delete "operating a vehicle while intoxicated with at least one" and insert "**an offense under IC 9-30-5-5 (operating a vehicle while intoxicated causing death); or**".

Page 8, delete lines 16 through 17.

Renumber all SECTIONS consecutively.

and when so amended that said bill do pass.

(Reference is to SB 172 as introduced.)

LONG, Chairperson

Committee Vote: Yeas 5, Nays 4.

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## SENATE MOTION

Mr. President: I move that Senator Antich be added as coauthor of Engrossed Senate Bill 172.

YOUNG R MICHAEL

## SENATE MOTION

Mr. President: I move that Engrossed Senate Bill 172, which is eligible for third reading, be returned to second reading for purposes of amendment.

YOUNG R MICHAEL

## SENATE MOTION

Mr. President: I move that Senate Bill 172 be amended to read as follows:

Page 4, line 9, after "shall" insert ":",

Page 4, reset in roman line 10.

Page 4, line 10, after "order" insert ":",

Page 4, line 11, reset in roman "(A) that the person be imprisoned for at least".

Page 4, line 11, after "(10)" insert "**thirty (30)**".

Page 4, line 11, reset in roman "days; or".

Page 4, reset in roman lines 12 through 13.

Page 4, line 14, reset in roman "(2)".

(Reference is to SB 172 as printed February 7, 2003.)

YOUNG R MICHAEL

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SENATE MOTION

Mr. President: I move that Senator Skillman be added as coauthor of Engrossed Senate Bill 172.

YOUNG R MICHAEL

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## COMMITTEE REPORT

Mr. Speaker: Your Committee on Courts and Criminal Code, to which was referred Senate Bill 172, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill be amended as follows:

Delete everything after the enacting clause and insert the following:

(SEE TEXT OF BILL)

and when so amended that said bill do pass.

(Reference is to SB 172 as reprinted February 14, 2003.)

WEINZAPFEL, Chair

Committee Vote: yeas 12, nays 1.

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